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Attorneys for Defendant
MOTORCAR CLASSICS, LLC

UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA

ALLISA ROOT,

Plaintiff,

vs.

RUBBER DUCK, LLC, a foreign limited liability
company, MOHAMED SAMADOV, MARKUS
ROSGEN, MOTORCAR CLASSICS, LLC and
DOES 1-V.

Defendants.

Case No: 20 TRT 00027 1B

PETITION FOR REMOVAL

TO: THE HONORABLE JUDGES OF THE UNITED STATES DISTRICT COURT FOR THE
DISTRICT OF NEVADA, MOTORCAR CLASSICS. LLC respectfully shows this Court:

1. Petitioner, Motorcar Classics, LLC, is a Defendant in the above-entitled action pursuant to an Amended Complaint filed in the 1st Judicial District Court of the State of Nevada in and for Carson City ("State Court") on October 22, 2020, entitled *ALLISA ROOT v. RUBBER DUCK, LLC, et al* (Case No. 20 TRT 00027 1B). Copies of Plaintiff Allis Root's Summons, Complaint and Amended Complaint are attached as **EXHIBIT A**.

2. Plaintiff's Summons and Amended Complaint in the State Court action were served on Petitioner Motorcar Classics, LLC on November 20, 2020.

3. The above-entitled matter is a "civil action" that might have been brought originally in federal court, and is removable under 28 U.S.C. §1441(a) from State Court to this United States District Court based upon diversity of citizenship of the parties; upon information and belief, Plaintiff's claims exceed this Court's jurisdictional minimum of \$75,000. *See* 28 U.S.C. §1332(a)(1).

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4. According to Plaintiff's Amended Complaint, Plaintiff alleges that she has incurred medical expenses of approximately \$109,000 and economic loss in excess of \$10,000. See **EXHIBIT B**.

5. Petitioner Motorcar Classics, LLC is a business organized under the law of the State of New York and has a primary place of business located in the State of New York, making it a citizen of New York. Upon information and belief, William Branston is the sole owner/member of Petitioner Motorcar Classics LLC, and he is a citizen of the State of New York.

6. Plaintiff Allisa Root is a citizen of the State of Nevada.

7. Defendant Rubber Duck, LLC is a business organized under the law of the State of Pennsylvania and has a place of business located in the State of California, making it a citizen of Pennsylvania and California. Upon information and belief, none of the members of Defendant Rubber Duck LLC, were Nevada citizens at the time that the Plaintiff filed her amended complaint.

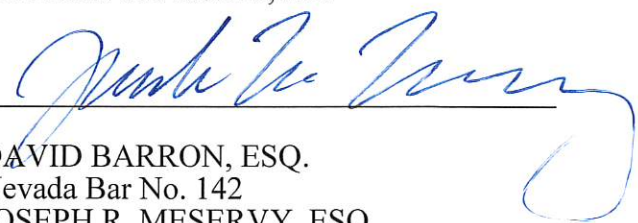
8. Defendant Mohamed Samadov is a citizen of the State of Pennsylvania.

9. Defendant Markus Rosgen is a citizen of the State of California.

10. This Petition for Removal is filed within thirty days of the action being removable. *See* 28 U.S.C. §1446(b)(1).

WHEREFORE, MOTORCAR CLASSICS, LLC prays that the above-entitled action be removed from the First Judicial District Court of the State of Nevada in and for Carson City, to the United States District Court for the District of Nevada.

BARRON & PRUITT, LLP



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Attorneys for Defendant
MOTORCAR CLASSICS, LLC

EXHIBIT A

EXHIBIT A

EXHIBIT A

Case No. 20 TRT 00027 1B

Dept. No. II

In The First Judicial District Court of the State of Nevada
In and for Carson City

ALLISA ROOT,

Plaintiff(s),

vs.

RUBBER DUCK, LLC, a foreign limited
liability company, MOHAMED SAMADOV,
MARKUS ROSGEN, MOTORCAR
CLASSICS, LLC and DOES I-V,

Defendant(s).

SUMMONS

On 1st Amended Complaint

THE STATE OF NEVADA SENDS GREETINGS TO THE ABOVE-NAMED DEFENDANT:

**NOTICE! YOU HAVE BEEN SUED. THE COURT MAY DECIDE AGAINST YOU WITHOUT YOUR
BEING HEARD UNLESS YOU RESPOND WITHIN 20 DAYS. READ THE INFORMATION BELOW.**

TO THE DEFENDANT: A civil Complaint has been filed by the plaintiff against you.

1. If you wish to defend this lawsuit, you must, within 20 days after this Summons is served on you, exclusive of the day of service, file with this Court a written pleading* in response to this Complaint.
2. Unless you respond, your default will be entered upon application of the plaintiff, and this Court may enter a judgment against you for the relief demanded in the Complaint**, which could result in the taking of money or property or the relief requested in the Complaint.
3. If you wish to seek the advice of an attorney in this matter, you should do so promptly so that your response may be filed on time.
4. You are required to serve your response upon plaintiff's attorney, whose address is

CHARLES M. KILPATRICK, ESQ.
ADAM L. WOODRUM, ESQ.
KILPATRICK, ADLER & BULLENTINI
412 No. Division Street
Carson City, NV 89703
(775)882-6112

AUBREY ROWLATT, Clerk of the Court

S. BARAJAS

By: _____, Deputy Clerk

Date: October 22, 2020

*There is a fee associated with filing a responsive pleading. Please refer to fee schedule.

**Note – When service by publication, insert a brief statement of the object of the action. See Rule 4.

RETURN OF SERVICE ON REVERSE SIDE

1 CHARLES M. KILPATRICK, ESQ.
 2 Nevada State Bar No. 00275
 3 ANGELA D. BULLENTINI, ESQ.
 4 Nevada State Bar No. 10524
 5 ADAM L. WOODRUM, ESQ.
 6 Nevada State Bar No. 10284
 7 Kilpatrick Bullentini
 8 412 North Division Street
 9 Carson City, Nevada 89703
 10 Tel: (775) 882-6112
 11 Fax: (775) 882-6114
 12 *Attorneys for Plaintiff*

REC'D & FILED

OCT 22 2020

Date

AUBREY ROWLATT
CLERKBy S. BARAJAS Deputy

13 IN THE FIRST JUDICIAL DISTRICT COURT OF THE STATE OF NEVADA
 14 IN AND FOR CARSON CITY

ALLISA ROOT,

Case No.

Plaintiff,

Dept. No.

vs.

15 RUBBER DUCK, LLC, a foreign limited
 16 liability company, MOHAMED SAMADOV,
 17 MARKUS ROSGEN, MOTORCAR
 18 CLASSICS, LLC and DOES I-V.

Defendants.

1st AMENDED COMPLAINT

19 COMES NOW Plaintiff, ALLISA ROOT, by and through counsel, the law firm of
 20 KILPATRICK BULLENTINI, and for cause of action against Defendants above named, hereby
 21 alleges and states as follows:

I

22 That the true names or capacities, whether individual, corporate, or associates, agents or
 23 employees of the Defendants, and all of them named herein as DOES I-V, are unknown to the
 24 Plaintiff who therefore sues said Defendants by such fictitious names. The Plaintiff prays leave to

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///

///

1 amend this Complaint to show the true names and capacities when the same have been fully
2 determined.

3 II

4 That at all times relevant to these proceedings, the Plaintiff was and remains a resident of
5 Carson City, State of Nevada.

6 III

7 That at all time relevant to these proceedings, upon information and belief, Defendant
8 RUBBER DUCK, LLC is a foreign business entity doing business in the state of Nevada.

9 IV

10 That at all time relevant to these proceedings, upon information and belief, Defendant
11 MOHAMED SAMADOV may be a resident of the state of Pennsylvania.

12 V

13 That at all times relevant to these proceedings, upon information and belief, Defendant
14 ROSGEN was a resident of the state of California.

15 VI

16 That at all times relevant to these proceedings, upon information and belief, Defendant
17 MOTORCAR CLASSICS, LLC was a corporation or other business entity doing business
18 throughout the United States but organized under the laws of the state of New York.

19 **FIRST CAUSE OF ACTION: NEGLIGENCE CAUSING PERSONAL INJURY**

20 VII

21 That on or about June 28, 2019, Defendant MOHAMED SAMADOV was operating a tractor
22 trailer rig owned by Defendant RUBBER DUCK, LLC, negligently allowed debris to enter into the
23 road way from said tractor trailer rig in violation of Nevada law. The unsecured debris blocked the
24 roadway, causing a roll-over accident involving Plaintiff's car. Said accident took place on IR 80
25 East at mile marker 108, Elko County, Nevada.

26 VIII

27 That on about June 28, 2019 Defendants ROSGEN and MOTORCAR CLASSICS, LLC
28 negligently failed to secure the hard top convertible of a certain 1988 Mercedes-Benz during
shipment from California to New York City, resulting in the hard top entering into the traffic lane

///

1 on IR 80 East at Mile Marker 108, Elko County, Nevada, causing a roll over accident involving
2 Plaintiff's car.

3 IX

4 That as a direct and proximate result of the negligent conduct of the Defendants and each of
5 them, Plaintiff has sustained certain personal injuries, including but not limited to, a broken back and
6 other injuries the exact nature and extent of which are unknown at this time. The Plaintiff has
7 incurred medical expenses of approximately \$108,000, economic loss in excess of \$10,000 and she
8 is entitled to an award of damages to reasonably compensate her for those medical expenses, out of
9 pocket expenses, other economic loss subject to proof, general damages, and appropriate damages
10 for any residual impairment and future medical expense as recoverable consistent with Nevada law.

11 **SECOND CAUSE OF ACTION: RESPONDEAT SUPERIOR LIABILITY**

12 X

13 Plaintiff incorporates the allegations set forth in Paragraphs I through VI as if fully set forth
14 here.

15 XI

16 That at the time of the aforesaid automobile accident, Defendant MOHAMED SAMADOV
17 was on the job and upon information and belief, operating a commercial motor vehicle owned by his
18 employer, Defendant RUBBER DUCK, LLC. As such, Defendant MOHAMED SAMADOV was
19 furthering the business interests of Defendant RUBBER DUCK, LLC at the time of said auto
20 accident.

21 XII

22 That at the time of said automobile accident, Defendant MOHAMED SAMADOV was acting
23 within the course and scope of his employment with Defendant RUBBER DUCK, LLC, and further,
24 that Defendant RUBBER DUCK, LLC had control over Defendant MOHAMED SAMADOV.

25 XIII

26 That given the foregoing, Defendant RUBBER DUCK, LLC is vicariously liable for the
27 negligence of its employee, Defendant MOHAMED SAMADOV.

28 XIV

That Defendant RUBBER DUCK, LLC was negligent in its failure to adequately train and
supervise its employee, Defendant MOHAMED SAMADOV.

KILPATRICK BULLENTINI 412 North Division St. Carson City, Nevada 89703-4168

XV

That Plaintiff has been required to retain the services of counsel and has incurred costs of suit herein.

XVI

That Plaintiff is not a debtor in bankruptcy.

WHEREFORE, Plaintiff prays for judgment against Defendants, as follows:

1. For money damages in excess of \$120,000 in an amount to be determined at the time of trial or hearing.
2. For a reasonable attorney's fee together with costs of suit and interest as provided by statute.
3. For such other and further relief as may be deemed proper by this court.

DATED this 22nd day of October, 2020.

KILPATRICK BULLENTINI

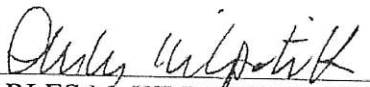

CHARLES M. KILPATRICK, ESQ.
ADAM L. WOODRUM, ESQ.
Attorneys for Plaintiff

EXHIBIT B

EXHIBIT B

EXHIBIT B

**Schedule of Special Damages
for
Allisa Root**

Date of Loss: 06/28/19

#	Medical Provider	Date(s)	Amount
1	MED-X Air One	06/28/19	64,081.00
2	University of Utah Medical Center	06/28/19	38,245.79
3	Spine Nevada	07/12/19	5,900.00
4	Carson Tahoe Health -- MRI	04/05/19	890.00
5	Tahoe Carson Radiology	04/05/19	176.00
6	Carson Tahoe Health -- X-rays	11/15/19	295.00
7	Tahoe Carson Radiology	11/15/19	30.00
Medical Provider Total:			\$109,617.79

#	Loss / Expense	Amount
4	Wage Loss 353 hours @ 30.53/hour	\$10,777.09
Loss/Expense Total:		\$10,777.09

SCHEDULE TOTAL: \$120,394.88